

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

FILE COPY

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

LEE A. SATHER

RESPONDENT

:
:
: FINAL DECISION AND ORDER
: 96 REB 233
:

: LS9705223REB

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Lee A. Sather
1328 Excalibur Drive
Janesville WI, 53546

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Lee A. Sather, ("Sather"), 1328 Excalibur, Janesville, WI, 53546 is a real estate broker (DOB January 11, 1959) having State of Wisconsin License No. 36421, which was originally granted to Sather on January 7, 1986. Sather has been doing business as Lee Sather and Associates, Better Homes and Gardens since December 10, 1991.

FINDINGS OF FACT
96 REB 233

2. On October 15, 1992, Auditor Pegelow met with Sather and Sandra Gilbertson, the office manager, to perform an audit on his real estate records, including his trust account. At that time, Sather was given a 344 Form "Description of Violations of Statute or Code Sections", a copy of which is attached hereto as Exhibit A and hereby made a part of this document. Sather was cited for several violations, including inaccurate journal information, failure to complete monthly trial balances, failure to perform monthly bank reconciliations, and failure to perform monthly account validations. Sather signed the 344 Form on October 15, 1992.

3. On or about July 8, 1996, Auditor Pegelow met with Sandra Gilbertson, the office manager at Sather's Janesville office to perform an audit on the Sather real estate records, including his trust account. At that time, Auditor Pegelow discovered that monthly bank reconciliations were not performed, that monthly trial balances were not performed, and that the account was out of balance by about \$520. Gilbertson had reviewed the account balances prior to the audit and requested assistance from M&I Bank of Janesville. On April 23, 1996, Tamara Macdonald, Assistant vice-president of Business Banking, at M&I Bank of Janesville indicated to Gilbertson that the errors go back further than June, 1995.

4. On July 8, 1996, Auditor Pegelow cited Sather on a 344 Form "Description of Violations of Statute or Code Sections", a copy of which is attached hereto as Exhibit B and incorporated herein by reference. This form details the violations found by Auditor Pegelow, including failure to maintain an accurate journal balance, failure to perform monthly bank reconciliations, failure to perform monthly trial balances, failure to perform monthly validations, notification of a shortage of \$520.75, and failure to reimburse trust account for bank charges after charge notification. Gilbertson signed the 344 Form on July 8, 1996. A copy of this form was mailed to Sather on August 5, 1996.

5. On July 8, 1996, Gilbertson was instructed to mail a copy of the Sather trust account bank reconciliation, trial balance and journal for June 30, 1996, to Auditor Pegelow to demonstrate compliance with the code. Auditor Pegelow received the June bank information on July 16, 1996. Auditor Pegelow reviewed the information received and found it to be in compliance with the code.

6. On July 8, 1996, Gilbertson was also instructed to mail a copy of the Sather trust account bank reconciliation, trial balance and journal for July 31, 1996, to Auditor Pegelow to demonstrate compliance with the code. Auditor Pegelow received the July bank information on August 16, 1996. Auditor Pegelow reviewed the information received and found it to be in compliance with the code.

7. On July 8, 1996, Gilbertson was also instructed to replace the \$520.75 shortage to the trust account. Auditor Pegelow verified that these funds were deposited into the trust account on July 12, 1996.

FINDINGS OF FACT
96 REB 233

8. On August 7, 1996, Auditor Pegelow met with Shirley Ringen, the office manager, and Wade Williams, the managing broker, of Sather's branch office in Beloit, to perform an audit on Sather's branch office real estate records, including his trust account. At this time, Williams was given a 344 Form "Description of Violations of Statute or Code Sections", a copy of which is attached hereto as Exhibit C and hereby made a part of this document. Sather was cited for several violations including failure to maintain monthly trial balances. Williams signed this 344 Form on August 7, 1996.

9. On August 7, 1996, Williams was instructed to mail a copy of the Sather (Beloit Branch) trust account trial balance for July 31, 1996, to Auditor Pegelow to demonstrate compliance with the code. Auditor Pegelow received the July trial balance information on August 15, 1996. Auditor Pegelow reviewed the information received and found it to be in compliance with the code.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Lee A. Sather has violated:

Section 452.14(3)(i) of the Wisconsin Statutes and Section, RL 18.09, 18.10, 18.13(1)(3)(4) and (5) of the Wisconsin Administrative Code by failure to deposit moneys within 10 days of notification of a bank service charge, failing to maintain an accurate journal balance, failing to perform monthly bank reconciliations, failing to perform monthly trial balances, and failing to monthly validate the account balance.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that Lee A. Sather, real estate broker license No. 36421 is hereby REPRIMANDED.

FINDINGS OF FACT
96 REB 233

IT IS FURTHER ORDERED, that Lee A. Sather, within six months of the date of this Order, successfully complete the following course module from the real estate broker's course at an educational institution approved by the Department of Regulation and Licensing:

a. The 5 hours Trust accounts, escrow, and closing statement module. [RL 25.02(2)(c)], and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that in the event Respondent Lee A. Sather fails to comply with the required education as set forth above, or fails to verify the same to the Department of Regulation and Licensing as set forth above, then his real estate broker's license shall be suspended, without further notice, hearing or order of the Board until he has complied with the terms of this Order.

IT IS FURTHER ORDERED, that Respondent Lee A. Sather pay a FORFEITURE in the amount of \$500.00 within 30 days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent Lee A. Sather fails to pay the \$500.00 forfeiture within the time and in the manner set forth above, then and in that event, and without further notice to the Respondent Lee A. Sather, his real estate broker's license shall be immediately suspended, without further notice, hearing or order of the Board until he has complied with the terms of this Order.

IT IS FURTHER ORDERED, that Respondent Lee A. Sather pay partial costs of this matter in the amount of \$300.00 within 30 days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent Lee A. Sather fails to pay the \$300.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Lee A. Sather, his real estate broker's license shall be immediately suspended, without further notice, hearing and without further order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing and his failure to pay the costs shall be considered a violation of this Order by the Board.

FINDINGS OF FACT
96 REB 233

IT IS FURTHER ORDERED, that file 96 REB 233 be, and hereby is, closed.

Dated this 22nd day of May, 1997.

WISCONSIN REAL ESTATE BOARD

By: James R. Amick, Jr.
see BB

Attachments A, B and C

g\bc&re\6REB233O

A

LICENSEE: Lee Sather
Better Homes & Gardens
ADDRESS: 1328 Escalier Dr
Janesville WI

LICENSEE #: 316421
DATE RECORDS EXAMINED: Oct 15, 1992
COUNTY: Rock

An examination of your records reveals that you have not complied with Chapter 452 Wisconsin Statutes and the Wisconsin Administrative Code relating to real estate practice.

DESCRIPTION OF VIOLATIONS OF STATUTE OR CODE SECTIONS

RL 18.13(1) Inaccurate Journal LWF.

Name of Person received EM From Must be Recorded
8/31/92 Deposit for 1313 Cleveland \$500 is Missing

RL 18.13(4) Trial Balances must be completed Monthly

Asked for Today's & November's Trial Balances

RL 18.13(3) Bank Reconciliations Must be completed Monthly

RL 18.13(5) Account Validation previously was not done
IF comply with 18.13(3 & 4) will be able to do monthly

RL 18.09 EM should be disbursed within 24 hours

After closing - not Before

Found 4 cases where EM was written out the
day Before closing

Make sure Acceptance Dates are included ~~and~~

2785 Road 4 East (B) Carlson - 1 case - update

VIOLATIONS EXPLAINED TO:

Lee Sather
Lee Sather

(Signature & Position) Broker

AUDITOR:

Janne Pepler

DATE:

10-15-92

If the person accepting this notice is not the licensee, a copy will be mailed directly to the licensee at the address listed above. Copy mailed to licensee on: 10-15-92

Handed

LICENSEE: Lee Sather
ADDRESS: 1338 Exallbur Dr
Wausville
COUNTY: Rock
DATE RECORDS EXAMINED: July 8, 1996
LICENSEE #: 36421

An examination of your records reveals that you have not complied with Chapter 452 Wisconsin Statutes and the Wisconsin Administrative Code relating to real estate practice.

DESCRIPTION OF VIOLATIONS OF STATUTE OR CODE SECTIONS

RL 18.13 - Bookkeeping is inadequate
→ Journal has been out of balance indefinitely
Monthly Bank Reconciliations & Trial Balances have
not been independently
RL 18.13(3) Bank Reconciliations must be done in
writing on a monthly basis
RL 18.13(4) Trial Balances must be done in
writing on a monthly basis
RL 18.13(5) Validations - Account & reports must
be reviewed for balancing & accuracy on
a monthly basis
→ Sent auditor a copy of the June 96 Bank Reconciliation
Total Balance Bank Statement & Journal Page
By July 18, 96 (Reviewed 7/16/96)
→ Sent July 96 Bank Statement, etc (as above)
to auditor by Aug 22, 96 (Reviewed 8/16/96)
The 7/5/96 Journal Balance & Trial Balance are
off by \$520.75. A Deposit should be
made to bring the Journal in balance with the ledger
RL 18.10 - Bank Charges must be reimbursed to Account
within 10 days of charge
VIOLATIONS EXPLAINED TO: Wanda Hillebrand, Office Manager
(Signature & Position)

AUDITOR: James Rogers DATE: 7/8/96
If the person accepting this notice is not the licensee, a copy will be mailed directly
to the licensee at the address listed above. Copy mailed to licensee on: 8/5/96

STATE OF WISCONSIN
DEPARTMENT OF REGULATION & LICENSING
DIVISION OF ENFORCEMENT

LICENSEE: Lee Sather & Associates

LICENSEE #: 36421

ADDRESS: 77 Beloit Mall

DATE RECORDS EXAMINED: Aug 7, 1996

Beloit - Branch Office

COUNTY: Rock

Better Homes & Gardens

An examination of your records reveals that you have not complied with Chapter 452 Wisconsin Statutes and the Wisconsin Administrative Code relating to real estate practice.

M&I Bank Beloit - #99783

DESCRIPTION OF VIOLATIONS OF STATUTE OR CODE SECTIONS

RL 18.13(4) Trial Balances are required in writing on a monthly basis - (listing of open transactions on the bank reconciliation date)

→ Sent auditor copy of ~~the~~ July 1996 Bank statement, reconciliation, trial balance & journal page. By → August 22, '96 (Received 8/21/96)

Larger sheets should be maintained as part of the record keeping system & not filed in transaction files

Reference Addendums in offer & get both parties initials on addendum acknowledging receipt

Closings must be extended in writing (ex - 1941 Church - Stann)
Earwest money deposits must be made within 48 hours of receipt - Sellers must be notified if late (ex 940 Brooks 5402 E. Ct. St)

VIOLATIONS EXPLAINED TO:

Nick Williams Manager

(Signature & Position)

AUDITOR:

Janne Pegelow

DATE:

8/7/96

If the person accepting this notice is not the licensee, a copy will be mailed directly to the licensee at the address listed above. Copy mailed to licensee on: _____

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

LEE A. SATHER
RESPONDENT.

STIPULATION
96 REB 233

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving this matter known as investigative file 96 REB 233. LEE A. SATHER ("Respondent") consents to the resolution of this matter by this Stipulation and the attached Final Decision and Order.

2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the State has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent has had the opportunity to consult with legal counsel regarding these matters and the legal implications of this Stipulation.

4. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

5. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the facts as set forth in the Findings of Fact, however, Respondent agrees that the Board may make the Findings of Fact and may reach the Conclusions set forth in the Conclusions of Law and may enter the Order attached hereto.

6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order. The matter shall then be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

STIPULATION

96 REB 233

Page 2

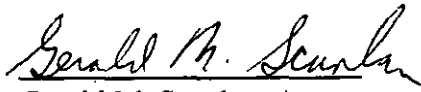
7. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondent agrees that Complainant's attorney, Gerald M. Scanlan, may appear at any meeting of the Board with respect to the Stipulation and that his appearance is limited to statements in support of the Stipulation and to answer any questions the Board may have regarding the Stipulation. Respondent waives any right he may have to have notice of that meeting and to be present at the meeting of the Board.

9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


LEE A. SATHER, Respondent

4/29/97
Date


Gerald M. Scanlan, Attorney
Division of Enforcement

5/5/97
Date

g:\bc&re\6reb233s

TEC: TAM

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech

TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On May 22, 1997, the Real Estate Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$300.00 Case #: LS9705223REB

The amount of the forfeiture is: \$500.00 Case # LS9705223REB

Please submit a check or a money order in the amount of \$ 800.00

The costs and/or forfeitures are due: June 21, 1997

NAME: Lee A. Sather LICENSE NUMBER: 36421

STREET ADDRESS: 1328 Excalibur Drive

CITY: Janesville STATE: WI ZIP CODE: 53546

Check whether the payment is for costs or for a forfeiture or both:

X COSTS X FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

G:\BDLS\FM2145.DOC

For Receipting Use Only

Committed to Equal Opportunity in Employment and Licensing+

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Lee A. Sather,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On May 23, 1997, I served the Final Decision and Order dated May 22, 1997, and Guidelines for Payment of Costs and/or Forfeitures, LS9705223REB, upon the Respondent Lee A. Sather by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 157 536.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

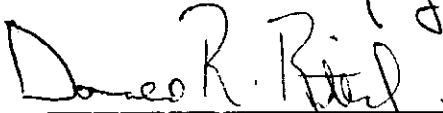
Lee A. Sather
1328 Excalibur Drive
Janesville WI 53546



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 23rd day of May, 1997.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

May 23, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)